

Client Alert

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Impact of Eased Restrictions on Importing Cuban-Origin Products into the US

Along with tobacco and rum, coffee is a Cuban flagship commodity that has been largely absent from the United States as a result of the present embargo against Cuba. On April 22, 2016, the United States Department of State updated its “Section 515.582 List” to allow Cuban-origin coffee and additional textiles and textile articles to be imported into the United States, subject to certain restrictions. The Section 515.582 List¹ sets forth the categories of Cuban goods that are prohibited from being imported into the United States. If a good is not governed by the sections and chapters of the Harmonized Tariff Schedule of the United States set forth in the Section 515.582 List, then such goods may be imported into the United States, provided that such goods are produced by independent Cuban entrepreneurs and that the persons subject to US jurisdiction engaging in the importation of such goods obtain documentary evidence that demonstrates the entrepreneur’s independent status, such as a copy of a license to be self-employed issued by the Cuban government or, in the case of an entity, evidence that demonstrates that the entrepreneur is a private entity that is not owned or controlled by the Cuban government. The Office of Foreign Assets Control’s Cuban Assets Control Regulations also govern and provide additional clarification regarding the importation of such Cuban-origin goods.

While the importation of Cuban-origin tobacco and rum continues to be prohibited by the applicable United States regulations, the importation of Cuban-origin coffee is now permitted. Other Cuban goods permitted to be imported into the United States subject to the conditions set forth above include, but are not limited to, perfumes, cosmetic or toilet preparations, soaps, candles, photographic or cinematographic goods, textiles and textile articles, and jewelry.

Business opportunities for US businesses seeking to import Cuban-origin goods may continue to increase in the future. On April 16-19, 2016, the Cuban Communist party held its Seventh Cuban Communist Party Congress, a four-day meeting of about 1,000 representatives of the Cuban Communist party that occurs every five years. Among other things, the congress set forth and adopted a document titled “Conceptualization of the Cuban Economic and Social Model for Socialist Development: National Plan for Economic and Social Development Until 2030 – Nation’s Vision Proposal, Strategic Axes and Sectors” (*Conceptualización del Modelo Económico y Social Cubano de Desarrollo Socialista: Plan Nacional de Desarrollo Económico y Social Hasta 2030 – Propuesta de Visión de la Nación, Ejes y Sectores Estratégicos*) (the “Conceptualization”), which sets forth high-level points for the proposed economic and social organization of Cuba, its government and its economy through the year 2030. The Conceptualization provides that Cuban individuals will be able to operate not only as small businesses without a different legal personality and whose work is fundamentally carried out by the individual and his or her family, but also as private enterprises of small and medium size with their own separate legal identity. This proposed change is significant because until now Cuban entrepreneurs (*cuentalpropistas*) have been able to operate only as individuals with no separate legal identity or as cooperatives, primarily used in the agricultural sector such as the growth of coffee.

¹ The Section 515.582 List is available at <http://www.state.gov/e/eb/tfs/spi/cuba/515582/237471.htm>.

The Conceptualization also proposes to provide to producers from the different types of enterprises (i.e., Cuban entrepreneurs [private enterprise] and state-owned entities [public enterprise]) similar access to the markets. This may include, for example, providing independent Cuban entrepreneurs who establish small or medium-size enterprises as separate legal entities access to national wholesale or international markets, which are currently not accessible by Cuban entrepreneurs.

This series of proposed changes by the Cuban government may expand the categories of goods that independent Cuban entrepreneurs produce and, to the extent that such categories of goods coincide with goods permitted for importation into the United States, the categories of goods that US businesses may import into the United States.

The Latin America group at Hunton & Williams LLP will continue to closely monitor related developments. Please contact us if you have any questions or would like further information regarding the Cuban Assets Control Regulations, the Section 515.582 List or any regulation or sanction governing the Cuban embargo.

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